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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

vs.

MONEX DEPOSIT COMPANY,
MONEX CREDIT COMPANY,
NEWPORT SERVICE
CORPORATION, MICHAEL
CARABINI, AND LOUIS CARABINI,

Defendant.

Case No. 8:17-cv-01868-JVS-DFM

Judge Hon. James V. Selna
Dept. 10C

**ORDER MODIFYING CONSENT ORDER AND APPOINTING
SUBSTITUTE MONITOR**

On December 19, 2022, the Court entered a Consent Order resolving Plaintiff
Commodity Futures Trading Commission’s (“CFTC”) amended complaint against
Monex Credit Company, Monex Deposit Company, Newport Service Corporation,
Michael Carabini, and Louis Carabini (collectively, “Defendants”). (Dkt. 416.) As
part of the Consent Order, the Court appointed National Futures Association
(“NFA”) as Monitor to receive restitution payments from Defendants and to
distribute those funds to eligible claimants. *Id.* at §V, A, Paragraph 60. Defendants
transferred \$33 million to satisfy the Restitution Obligation to NFA, which held

1 those funds in an account for the benefit of Monex customers for a period of time
2 (“Restitution Fund”).

3 On April 3, 2023, the Court entered an order modifying the Consent Order
4 and appointing Thomas Seaman Company as Substitute Monitor in place of NFA
5 for purposes of administering the Restitution Fund. (Dkt. 419.) The Restitution
6 Funds were then transferred to Thomas Seaman Company and it began conducting
7 the claims process.

8 Pursuant to the Joint Stipulation filed by the parties, the undersigned finds
9 good cause to now appoint Krista L. Freitag (“Freitag”) as the new substitute
10 monitor in place of Thomas Seaman Company for purposes of administering the
11 Restitution Fund.

12 IT IS THEREFORE ORDERED:

13 1. The Court hereby Amends Paragraph 60 of the Consent Order and
14 appoints Krista L. Freitag as substitute monitor (“New Substitute Monitor”).
15 Seaman shall transfer custody of the claims process documents and the Restitution
16 Fund to the New Substitute Monitor, which shall make distributions as required by
17 the Consent Order. All references to the “Monitor” in the Consent Order, and in
18 particular paragraphs 62-64 of the Consent Order, shall now refer to the New
19 Substitute Monitor. Once the Restitution Fund and documents are transferred,
20 Thomas Seaman Company shall be fully discharged and have no further obligations
21 in connection with the Consent Order. Within 45 days of the entry of this order, and
22 in accordance with the procedures previously approved for monitor fee applications,
23 Thomas Seaman Company shall file its final application for fees and costs incurred
24 in carrying out its monitor duties.

25 2. The New Substitute Monitor and all personnel employed or hired by
26 the New Substitute Monitor as herein authorized, including counsel to the New
27 Substitute Monitor and the claims administrator, are entitled to reasonable
28 compensation for the performance of duties pursuant to this Order and for the cost

1 of actual out-of-pocket expenses incurred by them for those services authorized by
2 this Order that when rendered were necessary to the administration of the
3 Restitution Fund. However, the New Substitute Monitor and any personnel hired by
4 the New Substitute Monitor shall not be compensated or reimbursed by, or
5 otherwise be entitled to, any funds from the Court or the Commission. The New
6 Substitute Monitor shall file with the Court and serve on the parties periodic
7 requests for the payment of such reasonable compensation, with the first such
8 request filed no more than 90 days after the date of this Order and subsequent
9 requests filed quarterly thereafter. The requests for compensation shall itemize the
10 time and nature of services rendered by the New Substitute Monitor and all
11 personnel employed or hired by the Substitute Monitor. In advance of submitting
12 the request for compensation with the Court, the New Substitute Monitor shall
13 provide copies of the request to all Parties for review and comment five business
14 days before the request is submitted to the Court. If any Party objects to any request
15 for compensation submitted by the New Substitute Monitor, they shall file an
16 Objection setting forth the reason(s) for their objection within five (5) business days
17 of the New Substitute Monitor's filing of its request.

18 3. The New Substitute Monitor, her professionals and agents shall not be
19 liable for the actions of any prior monitors appointed in this case and shall only be
20 liable for their own actions in carrying out the New Substitute Monitor's duties
21 hereunder, or assisting therein, in the event of gross negligence or willful
22 misconduct.

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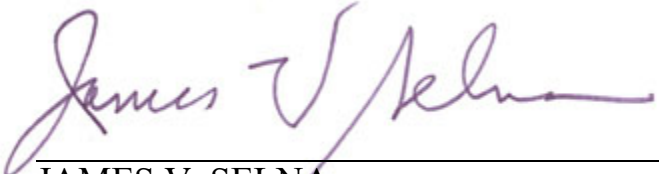
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4. Except as hereby amended, and as previously amended by Dkt. 419, the Consent Order remains unchanged and in effect.

IT IS SO ORDERED on this 25th day of June 2024



JAMES V. SELNA
UNITED STATES DISTRICT JUDGE